

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY**

Regular Meeting May 4, 2011

******Draft Document subject to Commission Approval******

CALL TO ORDER: Chairman Ceppetelli called the Meeting to order at 7:02 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

ESTABLISHMENT OF QUORUM:

Present: Regular Members Michael Ceppetelli (Chairman), Michael Koczera, John Malin, Richard Osborn, Ronald Savaria, Robert Slate, and Alternate Member Alan Baker.

Unable to Attend: Regular Member Michael Sawka and Alternate Members Ronald Hocutt, and Kathryn Roloff.

Guests: Selectman Richard Pippin (Inland/Wetlands Liaison); Kathy Pippin, Board of Finance.

Chairman Ceppetelli noted the establishment of a quorum with six Regular and one Alternate Member as noted above. All members will sit in on votes this evening.

Also in attendance was Wetlands Agent/Zoning Enforcement Officer Robin Newton.

AGENDA ADDITIONS:

MOTION: To ADD TO THE AGENDA under **NEW APPLICATIONS TO BE RECEIVED/ WALTER E. BASS, JR/McLellan Way:** North Road and Winkler Road, 20 Unit Condominium Project (McLellan Way) with regulated activity due to discharge from proposed detention basin and building construction on 47+/- acres. This property is located on North Road with frontage on Winkler Road, nearest intersection is Borrup Road. Assessor's Map 114, Block 24, Lot 005.

Osborn moved/Savaria seconded/VOTE: In Favor: Unanimous

APPROVAL OF MINUTES – April 6, 2011:

MOTION: To APPROVE the Minutes of Regular Meeting dated April 6, 2011 with the following amendments:

Page 1, Line #42, "MOTION: To ACCEPT ~~the~~ under **NEW BUSINESS TO BE RECEIVED.....**"

Page 4, Line #152, **NEW PUBLIC HEARING: #02-2011 – Town of East Windsor &**

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – May 4, 2011**

2

KROS East Windsor, LLC – Mitigation Measures Project – Reservoir Avenue (Kogut Farm)....., “previous INLAND WETLANDS Meeting.....”
Page 16, Line #705, “Agent Newton reported the site ~~look~~ LOOKED horrible.....”

Osborn moved/Koczera seconded/VOTE: In Favor: Unanimous

NEW PUBLIC HEARINGS: None.

NEW BUSINESS/1) 04-2011 – NEWBERRY ROAD ENTERPRISES, LLC:

Wetlands Restoration/Expansion of Volume Reduction Facility. This property is located at 68 Newberry Road, nearest intersection being Craftsman Road. Assessor’s Map 093, Block 19, Lot 006. (65 day application period ends June 10, 2011):

Chairman Ceppetelli read the description of this Item of Business.

Wetlands Agent Newton advised the Commission she did not expect the Applicant, or anyone from his team, to be present tonight to discuss this Application. She referenced her memo dated 5/4/2011 to the Commission which summarized the status of information provided for this Application, and noted outstanding items and additional information necessary to complete the Application review. Wetlands Agent Newton reported she had sent a memo to Guy Hesketh (engineer for the project) which advised him that additional information was needed. She has not received a response to that request for information; she noted Mr. Hesketh is aware of the outstanding items and may have the information available next week.

Wetlands Agent Newton reported David Askew, of the Hartford County Soil and Conservation District, is also attempting to review the proposed Application but is also in need of the additional information to complete his review.

Wetlands Agent Newton also referenced a memo dated 5/4/2011 from Town Engineer Norton offering comments based on his review of the submitted plans.

Wetlands Agent Newton reported that new trenches have been dug at the site. George Logan, Soil Scientist, is now concerned regarding the accuracy of information provided in November concerning an earlier delineation of the wetlands on the site. As receipt of that revised wetlands information remains pending Wetlands Agent Newton recommended the Application be continued until the Commission’s next meeting.

MOTION: To CONTINUE Application 04-2011 – NEWBERRY ROAD ENTERPRISES, LLC: Wetlands Restoration/Expansion of Volume Reduction Facility. This property is located at 68 Newberry Road, nearest intersection being Craftsman Road. Assessor’s Map 093, Block 19, Lot 006. Continuation of the Application will occur at the next regularly scheduled Meeting on June 1, 2011, at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – May 4, 2011**

3

Koczera moved/Slate seconded/VOTE: In Favor: Unanimous

NEW BUSINESS/2) 05-2011 – Newberry Road Enterprises, LLC: Stump Land for Expansion of Agricultural Crop Land. This property is located at 68 Newberry Road – Rear, nearest intersection being Craftsman Road. Assessor's Map 093, Block 19, Lot 009. (65 day application period ends June 10, 2011).

Chairman Ceppetelli read the description of this Item of Business.

Wetlands Agent Newton advised the Commission she did not provide them with a status memo on this Application. She reported Commissioners Savaria and Baker met with the Applicant during a site visit and requested additional information, which the Applicant, Mr. Dearborn, indicated he would not provide. Mr. Hesketh has been advised of the status of this Application; Mr. Hesketh was not aware additional information had been requested of the Applicant.

Chairman Ceppetelli suggested Commissioners Savaria and Baker provide Wetlands Agent Newton with a written request of the information they asked for; she could then advise the Applicant, and his staff, of the outstanding items.

Commissioner Baker clarified that they had not actually asked for any additional information. Wetlands Agent Newton then conferred with Commissioner Savaria, who had indicated to her that additional information had been requested. Commissioner Savaria said they stated their concerns – that at a previous Inland Wetlands Meeting they had requested a boundary survey, and that the Applicant show where the wetlands were located, and where the stumps will be placed. Commissioner Savaria noted those requests were reflected in the Minutes of that Meeting. Wetlands Agent Newton reported she has not received any of that information, nor has she spoken to the Applicant. She has not received word that the Applicant wanted the Commission to act on this Application this evening.

Commissioner Baker felt it was he and Commissioner Savaria's feeling that the Applicant, Mr. Dearborn, was amenable to the Commission's suggestions. Commissioner Savaria was a little less convinced of the Applicant's acquiescence. Commissioner Baker indicated he and Commissioner Savaria saw the drainage going towards the brook, and also a riprap check dam which has been placed there at the request of the Court. Commissioner Baker felt if the field is to be plowed and flattened out, as Mr. Dearborn has indicated that is what he wants to do, it will require a higher check dam. The bank also needs to be stabilized. Chairman Ceppetelli questioned if the stumps will be placed on the banks to stabilize the area, and if that is the intent, then the area where the stumps are to be placed must be identified on the plans. Commissioner Savaria felt the Commission had heard conflicting comments from Mr. Dearborn. At one point at the previous Meeting Mr. Dearborn had said the stumps would go on the bank to stabilize the slope, and during another comment Mr. Dearborn had said he intended to use the stumps for mulch. Commissioner Savaria noted none of that information is presently

TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – May 4, 2011

4

reflected on the plans before the Commission tonight. Chairman Ceppetelli queried Wetlands Agent Newton if she was comfortable with the riprap as it has been installed? Wetlands Agent Newton reported she isn't allowed on the property and therefore hasn't seen the riprap check dam.

Wetlands Agent Newton requested the Commission review the plans before them and advise her of information they would like to see from Mr. Dearborn. The following comments were made:

- Commissioner Baker suggested the water that drains to the brook must be clean when it leaves the property; Mr. Dearborn must advise the Commission how that will occur.
- Chairman Ceppetelli suggested the plan needs to show grades, and to show how steep the slopes are, and where the water will go. Without that information no one can calculate the amount of water that will leave the site.
- Commissioner Baker requested the plans show how the water will leave the site, and asked how the Commission can be assured that will occur, and that the water leaving the site will be clean.
- Commissioner Baker suggested the check dam that has been installed needs to be bigger.
- The Commission suggested Town Engineer Norton must be able to review the information requested.
- Wetlands Agent Newton suggested the Applicant needs to show the Commission how Best Management Practices will be followed to ensure that row crops will be planted in such a manner that run off is NOT directed towards the brook.
- Wetlands Agent Newton suggested a buffer area between the crops and the slopes should be considered an option as well.

The Commission discussed that the proposal is an application for expansion of a farming operation, and reviewed criteria by which they could consider the application. They noted clear-cutting the property was allowed, while stumping next to the wetlands would require an application. The Commission reviewed past application submissions and what was asked of those applicants to protect wetlands areas.

Commissioner Slate questioned who owned the property next to Mr. Dearborn's property? Wetlands Agent Newton reported it is a private owner. Commissioner Slate queried if that individual had been notified of the intended work? Wetlands Agent Newton indicated that person had not been notified as this Application is not a Public Hearing; she reviewed the criteria for setting a Public Hearing for the Commission. Wetlands Agent Newton suggested she could send a courtesy letter to that property owner if the Commission preferred; the Commission concurred with her suggestion.

Chairman Ceppetelli requested Wetlands Agent Newton send Mr. Dearborn a letter summarizing the additional information the Commission required to enable them to reach an informed decision; the information is to be added to the plans and provided to the Commission prior to the next/June Commission Meeting.

MOTION: To CONTINUE Application 05-2011 – Newberry Road Enterprises, LLC: Stump Land for Expansion of Agricultural Crop Land. This property is located at 68 Newberry Road – Rear, nearest intersection being Craftsman Road. Assessor's Map 093, Block 19, Lot 009. Continuation of the Application will occur at the next regularly scheduled Meeting on June 1, 2011, at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Koczera moved/Savaria seconded/VOTE: In Favor: Unanimous

NEW APPLICATIONS TO BE RECEIVED/1) WALTER E. BASS, JR/McLellan Way: North Road and Winkler Road, 20 Unit Condominium Project (McLellan Way) with regulated activity due to discharge from proposed detention basin and building construction on 47+/- acres. This property is located on North Road with frontage on Winkler Road, nearest intersection is Borrup Road. Assessor's Map 114, Block 24, Lot 005:

Chairman Ceppetelli read the description of this Item of New Business. Wetlands Agent Newton reported she hasn't been able to review this Application as documentation was received today. She described the location as a parcel being located on North Road which continues through to Winkler Road near the Borrup Road intersection. She described the parcel as containing many wetlands. The development will front on Winkler Road; two buildings containing 10 condominium units each are proposed. Sewer will be brought in from Winkler Road. Wetlands Agent Newton reported the only wetlands impact is the discharge from the detention basin, and one building is partially in the upland review area.

Chairman Ceppetelli questioned the amount of wetlands impact? Wetlands Agent Newton reported approximately 1/6th of an acre of wetlands will be impacted by the end of the discharge from the detention basin. Chairman Ceppetelli questioned how close is the nearest building from the wetlands? Wetlands Agent reported that distance would be approximately 70'. She also noted the plan shows phase lines for the project.

MOTION: To ACCEPT Application WALTER E. BASS, JR/McLellan Way: North Road and Winkler Road, 20 Unit Condominium Project (McLellan Way) with regulated activity due to discharge from proposed detention basin and building construction on 47+/- acres. This property is located on North Road with frontage on Winkler Road, nearest intersection is Borrup Road. Assessor's Map 114, Block 24, Lot 005.

Savaria moved/Slate seconded/VOTE: In Favor: Unanimous

MISCELLANEOUS:

Wetlands Agent Newton provided the Commission with a copy of a Stamford Superior Court Case (NO: FST CV 08 4014891S filed 12/16/2010) regarding Leandro Rizzuto,

Jr. v. Environmental Protection Board of the City of Stanford. She indicated the case involved a decision involving a farming exemption in which the Court ruled that a farming exemption does not excuse the property owner from the need to obtain a Permit prior to engaging in regulated activity. She offered the material for the Commission's review.

AGENT DECISIONS/1. Broad Brook Fire Department – Installation of a dry hydrant at 1 Rockville Road. Assessor's Map 048, Block 64, Lot 001:

Wetlands Agent Newton reported the Broad Brook Fire Department has submitted an Application to install a dry hydrant which would enable them to draw water from the Windsorville Pond to assist them should a blaze occur nearby. She noted there is little impact to the area; excavation will occur to install a pipe into the pond. The Commission questioned who would be doing the work? Wetlands Agent Newton will advise the Commission when the contract comes through for the permit.

STATUS REPORTS:

Newberry Village:

- Wetlands Agent Newton provided the Commission with the annual report provided by REMA Ecological Services regarding the status of the vernal pool activity at Newberry Village. The report indicates that a couple of vernal pools that were active are no longer functioning; as work occurs nearby the amphibians move to vernal pools in more outlying areas of the parcel. The number of egg masses for spotted salamanders has increased since the inception of construction; they are adapting by going to pools on the outside of the site. The number of wood frogs has decreased.

Discussion continued regarding development of the site in general. The Commission noted the map provided with the report carries a date of 2010; they questioned if a more recent map was available? Commissioner Slate noted the 2010 map indicates Phase IV – which was begun prior to Phase I – has not yet been completed. Wetlands Agent Newton reported that is correct; the developer has one more foundation to put in in Phase IV. Discussion followed regarding the sequencing of construction phases and past history of development of the site and its impact on the land.

- Wetlands Agent Newton advised the Commission the developer of Newberry Village has told her of his intent to begin another phase of development. She advised him the Commission wanted only one phase of development under construction at a time, and noted he was welcome to come before the Commission with his request. The developer has yet to request addition to a Meeting agenda.

The Commission discussed the expiration date of the current permit, and the past

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – May 4, 2011**

7

history – including opening a new phase of construction without notifying the Commission – of construction phases. Wetlands Agent Newton will review the history of the permit for the Commission.

South Main Street:

Wetlands Agent Newton reported the pile of millings located at the South Main Street location is still there, although the size of the pile is going down. She visited the property as recently as yesterday, and is consistently told that the pile will be gone in 30 days. She has sent out a letter indicating a significant fine is due; she is waiting to see if a Hearing will be requested. She noted this use is not permitted under any circumstances in this location.

CONFERENCES/SEMINARS/TRAINING: Nothing to report.

CORRESPONDENCE: Nothing to report.

GENERAL BOARD DISCUSSION:

- Chairman Ceppetelli noted the Commission has the ability to mandate that an applicant use a third party contractor to perform work to meet permit requirements. He suggested that option might be appropriate when an applicant has consistently failed to do anything he has said he would do in the past. Commissioner Baker questioned if the applicant would be required to post a bond? Wetlands Agent Newton replied affirmatively, noting the applicant needs to set a bond estimate which would be reviewed by Town Engineer Norton. Commissioner Osborn questioned if the third party contractor would be required to post a bond; Wetlands Agent Newton replied yes. She reported she has seen Wetlands Commissions use both options – to require a third party contractor, and to set a bond on the work. This Commission must review the history of the site, and review if the permit requirements have been adhered to in the past when making their decisions.
- Commissioner Slater questioned how high an applicant can pile material? Wetlands Agent Newton reported there is no height restriction under the Volume Reduction Facility regulations, however, the Planning and Zoning Commission can set height requirements under their Special Use Permit approval.
- Commissioner Slate advised the Commission he also serves on the Farmland Preservation Commission; that Commission is looking for land on which local farmers can raise hay. He asked the Commission to advise him of any available land. Discussion followed regarding various parcels, including some currently under lease. Conditions of the leases were discussed.

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – May 4, 2011**

8

PUBLIC PARTICIPATION (Discussion on non-Agenda items only):

Wetlands Agent Newton noted this is a new agenda item. The purpose of this item is to encourage the public to bring topics forward for discussion, but issues discussed can not include those posted on the Meeting Agenda.

Chairman Ceppetelli opened discussion to the audience:

Selectman Richard Pippin, Jr.: wished to clarify that this Agenda addition is a Charter requirement. He advised the Board that another Land Use Commission (the Planning and Zoning Commission) is considering making a canned statement at the inception of the Public Participation portion of the Meeting. The statement could be read, or handed out, at the Meeting before anyone speaks, and will clarify that the intent of this item is to present constructive ideas rather than negative criticism of a personal nature. He suggested this Commission might consider a similar approach.

Wetlands Agent Newton reported she will work with Town Planner Whitten and provide a statement for this Commission.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 8:00 p.m.

Osborn moved/Savaria seconded/VOTE: In Favor: Unanimous

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission
(2966)